

STATE ARCHIVES AND RECORDS COMMISSION
Minutes of the Quarterly Meeting
June 9, 2005
Department for Libraries and Archives

The State Archives and Records Commission met at 10:00 a.m., Thursday, June 9, 2005, in the Board Room, Kentucky Department for Libraries and Archives (KDLA), 300 Coffee Tree Road, Frankfort, Kentucky.

Members present: James A. Nelson, Chairman; Sandra L. McAninch, representing the Kentucky Library Association; James F. Kastner, representing the Kentucky Historical Society; Paul F. Coates, representing Citizens-at-Large; James E. Horner, representing Citizens-at-Large.

Representatives present: Brandon Haynes, representing Joseph E. Lambert, Chief Justice, Supreme Court; Amye Bensenhaver, representing Gregory D. Stumbo, Attorney General; Robert McBeath, representing Crit Luallen, Auditor of Public Accounts; Glenna Mays, representing Brad Cowgill, State Budget Director, Governor's Office of Policy and Management; Charles Robb, representing Michael Inman, Commissioner of Technology, Commonwealth Office of Technology.

Members not present or represented: Virginia G. Fox, Secretary, Education Cabinet; Robert Sherman, Director, Legislative Research Commission; Dr. Jack D. Ellis, representing Citizens-at-Large; and Lynne Hollingsworth representing Citizens-at-Large.

Public Records Division staff present: Richard N. Belding, Director, Public Records Division; Jerry Carlton, Manager, Local Records Branch; Larry Barnett, Local Records Regional Administrator.

Guests present: Nancy Gibson, Office of Insurance; Kara Keeton, Governor's Office of Agricultural Policy.

Nelson called for introductions by those present.

Mr. Haynes made a motion to accept the minutes of the previous Commission meeting, seconded by Mr. Horner. The vote by members and representatives present was unanimous.

NEW OR REVISED RECORDS RETENTION SCHEDULES

Environmental and Public Protection Cabinet – Department of Public Protection – Office of Insurance

Jim Cundy was the records analyst working on this revised schedule. The schedules under consideration include **Administrative Services** (Series 03567, 03589, 03708 and 03710; Adding 05418; Deleting 03568, 03569, 03572, 03573, 03574, 03576, 03579, 03583, 03584, 03585, 03588, 03590, 03591, 03705; Changing [closing] 03570, 03571, 03577, 03578, 03580, 03581, 03582, 03706, 03707, 03709, and 03711); **Consumer Protection and Education** (Series 03351, 03352, 03353, 03357, 03618, and 03619); **Health Insurance Policy and Managed Care** (Series 03235, 03237, 05004; 05013; and 05331; Adding 05417; Deleting 05005, and 03239); **Financial Standards and Examinations** (Series 03426 through 03430, 03432 through 03435, 04152, 04545, and 04657; Changing [retention] 03424, 03425, and 03431); **Insurance Fraud Investigation** (Series 04872 through 04875); **Kentucky Access** (Adding 05411 through 05415); **General Counsel** (Series 03350, 03356, 03358 through 03365, 03420, 03492, 03617, 03700, 03701, and 05403); **Life** (Series 03234 and 03238); **Agent Licensing** (03089, 03091, 03094, 03236, 04178, 04179, and 05405; Adding 05405; Deleting 03095 through 03105, 03698, and 03699; Changing [closing] 03084 through 03088, 03090, 03093, 03620, and 04038); **Property and Casualty** (Series 03126 through 03134, 03136 through 03139, 04122 and 04995; Deleting 04401; Changing [closing] 04122); **State Risk and Insurance Services** (Series 03660, 03663, 03664, 03665, 03667, 03670, 04385, and 05341; Changing [retention] 05341; Changing [closing] 03661, 03662, 03666, 03668, and 03669); **Market Conduct** (Series 03354 and 03355).

Belding presented this new schedule in Cundy's absence. He noted that this is a complete revision of the schedule for the Office (formerly Department) of Insurance. Nancy Gibson, Records Officer for the office, noted that the new schedule reflected the office's current business practices more accurately than the agency's current retention schedule does. The current schedule had not been completely revised since June 1990. Belding noted that several factors prompted the need for a new schedule: changes in the office's record keeping practices and changes in record keeping practices by the National Association of Insurance Commissioners. The former are reflected in Series 05418, Office of Insurance Integrated Information Management System, the office's relatively new automated electronic record keeping system. The latter are reflected in the schedule for the Division of Agent Licensing, especially Series 05405, Individual Agent License File. There have been some deletions and administrative changes to series.

Robb asked about Series 05418, Office of Insurance Integrated Information Management System. He asked if any record on that system, or on the retention schedule, reflected the deletion of records from the system. Ms. Gibson noted that presently nothing is being deleted from the system, especially in Agent Licensing. She noted that the current practice of scanning agent files helped streamline and centralize recordkeeping practices in the office.

Coates asked about records with a retention period of zero. Carlton and Belding responded that this means the record series under consideration are closed, or no longer produced by the office.

Mr. Haynes made a motion to adopt the schedule, seconded by Mr. Kastner. The vote by members and representatives present was unanimous.

Governor's Office of Agricultural Policy

Cundy was the records analyst working on this new schedule. The series under consideration were 05421, Agricultural Development Fund Approved Grant Files; 05422, Agricultural Development Fund Denied/Withdrawn Grant Applications -- Denied/Withdrawn; 05423, Agricultural Development Fund Approved Loan Files; 05424, Kentucky Tobacco Settlement Trust Corporation Dispute Files; 05425, Kentucky Aquaculture Production Systems (KAPS) Grant File; 05426, Kentucky Aquaculture (KAPS) Grant Applications -- Denied/Withdrawn; 05427, Kentucky Agricultural Finance Corporation (KAFC) Revolving Loan File; 05428, Kentucky Agricultural Finance Corporation (KAFC) Revolving Loan Application File -- Denied/Withdrawn; 05429, Linked Deposit Loan Program File.

Belding presented this new schedule in Cundy's absence. He noted that the final narrative and financial reports of these grants and loans have a permanent retention period, as distinct from the remainder of the material in the file and as reflected in the disposition instructions for the appropriate records. In response to a question by Belding, Kara Keeton, Records Officer for the office, noted that there is already interest in exploring these materials, particularly from researchers at the University of Kentucky and the University of Louisville. She said that this is the rationale behind maintenance of the final narrative and financial reports.

Nelson asked about the role of the office once all Settlement Fund moneys are disbursed. Ms. Keeton noted that continued existence of the office is likely, especially given the transfer in 2004 of the Agricultural Finance Corporation, placing it under the administrative auspices of GOAP.

In response to a question by Coates, Ms. Keeton summarized the process through which funds are distributed to local entities. Interest that accrues and funds that are not spent are returned to the state, redeposited and redistributed.

Ms. McAninch made a motion to adopt the schedule, seconded by Horner. The vote by the members and representatives present was unanimous.

Environmental and Public Protection Cabinet – Office of the Inspector General – Division of Criminal Investigation – Division of Technical Support Executive Services

Cundy was the records analyst working on these changes. Series added to the schedule were 05419, Criminal Investigation Case File; and 05420, Executive Support Case File.

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Belding presented these changes in Cundy's absence. He noted that the office had been created under the Natural Resources and Environmental Protection Cabinet, and carried over into the new Environmental and Public Protection Cabinet. The office is responsible for administrative investigations into environmental abuse and executive support in the form of personnel investigations. Any criminal cases may move on to courts or, rarely, into the cabinet's Division of Legal Services.

Mr. Horner asked if there were any long-term record of parties who had been subject to investigations that were not substantiated. Ms. McAninch also expressed concern that there may not be any permanent record of investigated parties. Mr. Horner noted that investigatory techniques may change, allowing for more effective interpretation of forensic evidence. Mr. Nelson suggested that the matter be tabled until the next meeting when Cundy could address these issues.

Mr. Haynes made a motion to table these changes until more information could be obtained, seconded by Mr. Kastner. The vote by the members and representatives present was unanimous.

Jailer's Retention Schedule – Administration

Jerry Carlton was the regional administrator working on these schedule changes. The series being changed is L2674, Jail Register (a.k.a. Inmate Register).

Carlton said that this is a seventy-five year record and the requested change in retention is to ten years after release of inmate or five years after death of inmate, to match that of Series L2751, Inmate Record/Folder. He noted that most jail registers are being maintained electronically, and that the register contains information that can be found in the inmate folder.

Nelson asked about expungement in cases where charges are unsubstantiated. Carlton responded that expungement is supposed to follow the paper trail created by legal proceedings. Haynes noted that to be carried out effectively, expungement orders must be executed by defense counsel with knowledge of the intricacies of the law enforcement and judicial systems.

In response to a comment by Mr. Horner, Carlton agreed that, under this change, there would be no records of incarceration beyond a certain point unless an arrest results in further legal action. If a case is prosecuted, there will be a case file; or if there is a police investigative file, that record is maintained seventy years.

Mr. Kastner made a motion to adopt the change, seconded by Mr. Haynes. The vote by the members and representatives present was unanimous.

Local Government General Records Retention Schedule – Personnel

Carlton was the regional administrator working on this schedule. The series being changed are L5034, Personnel File, from Indefinite, Destroy 70 years from date first employed, to Indefinite, Destroy [selected materials] 60 years from date first employed, Destroy [other selected materials] three years from termination of employment; and L5035, Personnel Medical File, from Indefinite, Maintain while individual employed; after termination of employment, place in personnel file, to Destroy 30 years after termination of employment. The series being added are L5826, Personnel Hazardous Materials Exposure File and L5829, Personnel Medical File (OSHA).

Carlton said that he had made some changes pursuant to suggestions by members of the Advisory Committee. He noted that the retention period of Series L5034, Personnel File, would be changed from Indefinite, Destroy 70 years from date first employed, to Indefinite, Destroy 60 years from date first employed. While this does not represent a significant reduction, the retention period is still in keeping with practices in other locales. He said that he also aimed to assist officials with the responsibility of maintaining these records for such a long duration by allowing them to purge the file. He increased the retention of selected materials, including employee evaluations from three years after termination to five years after termination. He noted that grievances are already on the Local Government General Records Retention Schedule, with a retention period of three years after resolution of the action. He further said that background checks are conducted each time an employee begins a new job. In response to a question by Ms. Bensenhaver, he noted that the disposition instructions for this series will read: Indefinite, **Destroy the following 60 years from date of first hire:** 1) Applications for positions; 2) Name; 3) Last known address; 4) Social security #; 5) Letters of resignation; 6) Starting and ending dates of employment; 7) Retirement information; 8) Verification of positions held. **Destroy the following five years after termination of employment:** 1) Employee evaluations; 2) Letters of intent; 3) Sign off for reading of policies/procedures; 4) Health/life insurance membership; 5) I-9 verifying legal residency; 6) Job descriptions; 7) W-4; 8) Copies of contracts; 9) Leave records; 10) Criminal background checks; 11) Experience verification forms; 12) Copies of driver's license and birth certificates; 13) Resumes; 14) General correspondence/memos; 15) Complaints; 16) Commendations; 17) Disciplinary actions taken.

A lengthy discussion ensued regarding the personnel records maintained by local government agencies.

Carlton said that the proposed Series L5829, Personnel Medical File (OSHA), would be discarded and L5035, Personnel Medical File, would be maintained Indefinitely, Destroy 30 years after

years after employment, with three exceptions: health insurance claims; first aid records; and records of employees who have worked less than one year whose medical records are returned to them.

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Carlton said that the proposed retention of L5826, Personnel Hazardous Materials Exposure File, is federally mandated. An employee's exposure file must be kept separately from the employee's medical file. The retention would read: Indefinite, destroy 30 years from date of each exposure. This should allow for the destruction of records related to each incident in a timely fashion.

Mr. Coates made a motion to adopt the changes, seconded by Ms. McAninch. The vote by the members and representatives present was unanimous.

Public School District Retention Schedule – Professional Staff Development – Personnel – Student Records

Carlton was the regional administrator working on this schedule. The series being changed are **(Personnel)** L3137, School District Superintendent Evaluation by Local School Board, from Indefinite, Destroy 70 years from date first employed, to Indefinite, Destroy thirty years after termination of employment; L5343, Personnel File from Indefinite, Destroy 70 years from date first employed, to Indefinite, Destroy [selected materials] 60 years from date first employed, Destroy [other materials] 3 years from date of termination of employment; and L5272, Personnel Medical File, from Indefinite, Maintain while individual employed; after termination of employment, place in personnel file, to Indefinite, Destroy thirty years after date of first hire. The series being added are **(Professional Staff Development)** L5823, Individual Professional Growth Plan; and L5824, Personnel Evaluation; **(Personnel)** L5827, Personnel Hazardous Materials Exposure File and L5828, Personnel Medical File (OSHA); and **(Student Records)** L5825, Primary Student Learning Performance Profile.

Carlton noted that there seemed to be the most questions regarding Series L3137, School District Superintendent File. He had originally suggested a change in retention from Indefinite, Destroy 70 years from date first employed, to Indefinite, Destroy three years after termination of employment. He said that he would instead like to change the retention period from Indefinite, Destroy 70 years from date first employed, to Indefinite, Destroy thirty years after termination of employment. He noted that the issue raised had concerned the movement of superintendents among school districts, and that this change should address the need for these evaluations. He noted that the changes to Series L5343, Personnel File, Series L5827, Personnel Hazardous Materials Exposure File, and Series L5272, Personnel Medical File, would mirror those to the Local Government General Records Retention Schedule discussed earlier. Series L5828, Personnel Medical File (OSHA) would be discarded.

Ms. McAninch made a motion to adopt the change, seconded by Mr. Kastner. The vote by the members and representatives present was unanimous.

Department of State Police – Criminal Identification and Records

Cundy was the records analyst working on these schedule changes. The series being changed are 00055, Civilian Traffic Accident Reports; 00059, Uniform Citation File; and 03984, Uniform Offense Report - KSP Records.

Belding presented the changes in Cundy's absence. He said that the disposition instructions for Series 00055, Civilian Traffic Accident Reports, is being changed to account for electronic imaging of the records, and that the retention of Series 00059, Uniform Citation File, and 03984, Uniform Offense Report - KSP Records, is being changed from three years to five years to allow for more effective data analysis and because electronic storage capacity is greater and less expensive.

Mr. Kastner made a motion to adopt the change, seconded by Mr. Haynes. The vote by the members and representatives present was unanimous.

The next item was **Other Business**.

Chair Nelson recognized Belding. Belding said that the department would be issuing a notice to state agencies advising them of a ninety-day moratorium on records transfers to the State Archives because of its lack of storage space. During the ninety-days, the department would reexamine its ability to accept transfers. He said the department is moving the circulating Braille materials, part of its Talking Books Collection, to the lobby. A portion of the department's circulating cassette collection would be moved to the Braille stacks on the second floor. The remainder of the circulating cassette collection would also be repositioned to allow space for more archival shelving. He indicated the temporary nature of this action and noted that this underscored the department's need for an expansion of its current facility.

Belding said that, to that end, the department is making a recommendation to the Capital Planning Advisory Board for a facility expansion. He said that staff had requested an addition in each of the last eight biennial budget sessions and an archival facility expansion in each budget session over the last ten years. Belding said that the favored design for the expansion is of modular construction, high-density, high-elevation, and storage would include barcoding for tracking and retrieval purposes. He noted that this type of facility could be easily explained to interested parties, and that there are several existing facilities of a similar design to use as examples. He noted that the facility would have a temperature controlled vault for storage of microfilm and other specialized media. It will also have an area for accessioning and processing of incoming collections. He said that the department's request would come before the Capital Planning

Planning Advisory Board for discussion in July.

Belding noted, as an example, that the construction of new judicial facilities in the counties did not include extensive space for archival storage. This has led to a large amount of court records

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coming to the archives with a great impact on available storage space. He said that the department is pursuing avenues other than capital construction to fill this need, including reformatting and accessioning records in electronic formats rather than paper.

Belding noted that records management represented responsibilities that every agency has and that the department is doing what it can to make those responsibilities known. Along these lines, to further provide substantive guidance for agencies, the department recently approved amended guidelines for transfer of state publications in electronic format.

Belding noted that certain KDLA staff participated in a Library of Congress event in which participants addressed preservation of vital state and local government information in a digital format. He said that the department's Glen McAninch, who had attended, said that he felt the event was designed to allow the Library of Congress to gather information on what various states are doing to work in a cooperative manner on digital preservation concerns, and to assess the level of work being done by different states. Nelson noted the importance for government officials to remember that, as technology changes, the production of records continues, regardless of the format.

Nelson recognized Mr. McBeath, who distributed a press summary of a Transportation Cabinet policy said to be on hold. The policy was aimed at limiting the exposure of sensitive information. The policy instructed employees to "treat the official business of the Cabinet as confidential." The account of the policy goes on to note that "all employees shall shred or otherwise destroy any documents containing confidential information." Mr. McBeath's action is merely intended to bring this issue to the attention of the members of the commission. Belding noted that he had discussed with Jim Cundy, Acting State Records Branch Manager, ensuring that the Transportation Cabinet's records staff understood that confidential information could be managed properly without destroying it, and that restrictions on records were buttressed by some statutory citation. Bensenhaver suggested that the department issue a letter to the Transportation Cabinet. Nelson said he would discuss it with both legal and communications staff at the Education Cabinet.

Nelson moved to consideration of Local Records Grants. He noted that commission members had received recommendations for disbursement of grant funds in advance of the meeting. He recognized Carlton who noted that the department had distributed \$328,890. The \$101,110 for consideration here represented the balance of grant funds to be distributed. He noted a large outlay to assist the Lexington/Fayette Urban-County Government (LFUCG) in the purchase of shelving for its new records center. He commented that LFUCG personnel are taking their records management responsibilities seriously and anticipate moving into their new records center by

center by August. Belding noted that the commission had approved a complete revision of the LFUCG retention schedule in September 2004, and that Local Records staff has worked closely with the Urban-County Council Clerk and her staff in planning the facility's setup and equipment. He said that this represented a significant advance for the LFUCG. Carlton

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commended the work of the Council Clerk and elaborated on the assistance the department offered. He praised the efforts of Sunnye Smith, Grants and Contracts Specialist, who was unable to attend the meeting.

Mr. Coates made a motion to recommend the grants to Commissioner Nelson for his approval, seconded by Ms. McAninch. The vote by members and representatives present was unanimous.

There being no further business, Nelson adjourned the meeting at 11:45.